

**Remarks/Arguments**

Claims 1-15 continue to be rejected under 35 U.S.C. § 102 as being anticipated by Ziolk (USPN 4,418,447). Applicant continues to disagree with the conclusions of the examiner and reasserts all previous arguments. In addition to this applicant would request reconsideration of the rejection because at least claims 1-6 have been considered to have novelty in the international preliminary report on patentability by the European Patent Office, a competent search authority for U.S. applications.

Claims 1-15 are rejected under 35 U.S.C. § 102 as being anticipated by Ziolk. Applicant asserts that each and every limitation is not taught by the prior art reference. Specifically, claim 1 has been amended to require "moving the pressing members with a second movement that is directed in opposite direction of the direction of the first movement apart from each other and back from the constricted sausage strand." , Ziolk does not teach this limitation and instead teaches that during the construction phase the surfaces 61, 62 are moved toward each other and during the next separating phase are moved away from each other as they have passed each other at that time. Thus, when the movement of the surfaces 61, 62 are considered as a relative movement of the surfaces 61, 62 they are moved toward each other and after passing each other are moving away from each other again. As amended, the claim describes the movement of surfaces of 61, 62 not as a relative movement toward each other but as a movement relative to the environment (excluding the surfaces 61, 62) or relative to the filled casing. As a result, the amended claim limitation is not met and the anticipation rejection is considered overcome.

As an additional argument Applicant asserts that the international search report indicates that claim 1 is not anticipated by Ziolkko. The present application is based on PCT/NL2004/000863 having an international filing date of December 10, 2004 and a priority date of December 12, 2003. According to the international preliminary report on patentability provided by the European patent office claims 1-6 were novel when compared to the Ziolkko reference that is referred to as D1. According to MPEP 1840.01 the European Patent Office is a competent searching authority.

According to the European Patent Office:

The subject matter of claim 1 differs from this known method and that between steps C and E the pressing members 34 are moved apart. The subject matter of claim 1 is therefore new (Article 33(2) PCT). The prior published documents, cited in the description of the international search report, either taken individually or in combination do not disclose, suggest or reasonably lead the person skilled in the art to consider moving the pressing members (34) apart during a processing step D between steps C and E. The person skilled in the art would not be able to combine all the features of claim 1 and as such arrive at the claimed method without an inventive activity. Moreover, claims 2-6 are dependent on claim 1, and thus all the claims 1-6 satisfy the requirements of Article 33(2)(3) PCT.

Therefore, not only did the international searching community consider that claim 1 was novel in view of the Ziolkko reference but additionally felt an inventive step has been presented.

According to MPEP 1843 "The international search is a thorough, high quality search of the most relevant sources. Upon completion of the international search an International Search Report is established. The report provides information on the relevant prior art to the applicant, the public, the

designated offices, and the international preliminary examining authority." MPEP 1843. Applicant again asserts that this is additional evidence that in fact claim 1 is not anticipated by Ziolk and thus applicant respectfully requests reconsideration of the rejection.

Applicant asserts that independent claim 7 also is not anticipated by Ziolk. Independent claim 7 has been amended to require "characterized in that each paired cutting member and pressing member are provided of two individual arms located on opposite sides of the sausage strand such that the sausage strand is to be separated as the pressing members are moved back from the sausage strand the cutting members paired with the moving apart pressing members are moved toward each other each from the opposite side of the pressing members they are coupled with." Similar to claim 1, the amendment focuses on the movement of surfaces 61 and 60, not as relative movement toward each other but as movement relative to the environment excluding surfaces 61, 62 and thus as discussed with claim 1 Ziolk does not teach this limitation. Thus, Applicant respectfully requests allowance of the claim. Additionally, claims 2-6 depend on claim 1 and claims 8-15 depend on claim 7 and for at least this reason Applicant also considers them in allowable form

### **Conclusion**

If any issues remain that may be expeditiously addressed in a telephone interview, the Examiner is encouraged to telephone the undersigned at 515/558-0200.

All fees or extensions of time believed to be due in connection with this response are attached hereto; however,

consider this a request for any extension inadvertently omitted,  
and charge any additional fees to Deposit Account 50-2098.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. Zarley', with a horizontal line extending to the left.

Timothy J. Zarley  
Reg. No. 45,253  
ZARLEY LAW FIRM, P.L.C  
Capital Square  
400 Locust Street, Suite 200  
Des Moines, IA 50309-2350  
Phone No. (515) 558-0200  
Fax No. (515) 558-7790  
Customer No. 34082  
Attorneys of Record

- JLH/bjs -